



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN THE MATTER OF: Drew Technologies, Inc.

Attention:

Mr. Brian Herron, President  
3915 Research Park Drive  
Ann Arbor, MI 48108

MAR 07 2019

**Request for Information under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)**

The United States Environmental Protection Agency ("EPA" or "We") hereby requires Drew Technologies, Inc. and any of its affiliates ("Drew" or "you"),<sup>1</sup> to submit certain information as part of an EPA investigation to determine your compliance with Sections 203(a) and 213(d) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable vehicle regulations at 40 C.F.R. Parts 85, 86 and 1068. Examples of vehicles or engines regulated under these Parts include, but are not limited to, automobiles, pickup trucks, heavy duty trucks and construction and farm equipment. Appendix A provides definitions. Appendix B provides instructions for your responses to this Request for Information. Appendix C specifies the information that you must submit.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Manager in the Office of Enforcement and Compliance Assurance.

You must submit this information to the EPA representative listed below within thirty (30) calendar days from the date of this Request for Information. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to this Request for Information by this date, you must contact David E. Alexander by telephone at (202) 564-2109 and by email at [alexander.david@epa.gov](mailto:alexander.david@epa.gov) within fifteen (15) days of the date of this

<sup>1</sup> See definition 5 in Appendix A.

Request for Information and, with an appropriate written justification, request an extension of time to answer some or all of the requests below. If timely submitted, the EPA will review your request and may extend the time in which your response must be submitted.

Failure to provide all the requested information, and in the format requested, may result in additional inquiries and may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Your responses must be clear, accurate, organized, and complete. We will regard any submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes.

Finally, you must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this Request for Information in an administrative, civil, or criminal action.

You are entitled to assert a business confidentiality claim covering all or part of the information that you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix D of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

David E. Alexander, Attorney  
United States Environmental Protection Agency  
Air Enforcement Division, (Room 1111-B, South)  
1200 Pennsylvania Ave. N.W.  
Washington, DC 20044  
(telephone (202) 564-2109)

Any questions concerning this Request for Information should be directed to David Alexander at (202) 564-2109 or by email at [alexander.david@epa.gov](mailto:alexander.david@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to be 'EB', is written above a horizontal line.

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Evan Belser, Chief  
Vehicle and Engine Enforcement Branch  
Air Enforcement Division  
Office of Air Enforcement and Compliance Assistance



## **Appendix A**

### **Definitions**

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or the Motor Vehicle and Non-Road Regulations found at 40 C.F.R. Parts 85, 86, 89, 90, 1039 through 1068.
2. The terms “document” and “documents” mean any object that records, stores, or presents information, and includes, without limitation, email, writings, memoranda, contracts, agreements, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy shall also include attachments to, or enclosures which ever accompanied any document.
3. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.
4. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
5. The terms “Drew”, “you,” and “your” include, but are not limited to, the business entity operating under the name “Drew Technologies, Inc.”, and any parent organizations, affiliates, predecessors, successors, and assignee organizations, including but not limited to Opus Group AB and subsidiaries.
6. The term “affiliate” means any organization or entity associated with you as an agent, predecessor corporation, parent or subsidiary organization not already named, or any other organization or entity acting in lieu of you or the entities named in Definition 5.
7. The term “sale” includes *all* sales (*e.g.*, sales made online through eBay or any other online sales platform, sales made in person, private sales, sales made in bulk to distributors, as well as software provided or transmitted with or without hardware.).
8. The term “motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. *See* Section 216 of the CAA, 42 U.S.C. § 7550(2).
9. The term “applications” means all vehicle or engine configurations.
10. The term “emission-related parts” means those parts installed for the specific purpose of controlling emission or those components, systems, or elements of design which must function

properly (e.g. as designed) so as to assure continued vehicle emission compliance.  
40 C.F.R. § 85.2102.

11. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items and their specifications on a vehicle or engine. (see e.g., 40 C.F.R. § 86.094-2).
12. The term “part or component” includes any part or component intended for use with, or as part of, any vehicle or vehicle engine (e.g., electronic control module (“ECM”), element of design, tuner, tune, calibration map, mode or software that is installed on or designed for use in such vehicles or engines).
13. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors, outputs or signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Other ECMs may be incorporated separately with multiple units used to control various engine, vehicle, or equipment functions. Examples of electronic control modules include, but are not limited to, Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”), and after-treatment control module. Any or all of these modules may be combined into a single physical unit.
14. The term “engine tuner” or “tuner” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps, spark timing maps), coding, or other content or information stored within or used by an electronic control module.
15. The term “engine tune” or “tune” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps, spark timing maps), coding, or other content or information, stored in any form, capable of affecting, controlling or modulating the function of an electronic control module.
16. The term “selective catalytic reduction” or “SCR” includes systems that inject a reductant, such as diesel exhaust fluid (“DEF”), into the exhaust stream where it reacts with a catalyst to convert nitrogen oxides (“NO<sub>x</sub>”) emissions to nitrogen gas (“N<sub>2</sub>”) and water (“H<sub>2</sub>O”).
17. The term “onboard diagnostics” or “OBD” includes systems that monitor components that can affect the emission performance of the vehicle to ensure that the vehicle remains adequately compliant over its entire service life, and which assists repair technicians in diagnosing and fixing problems with the emissions control system. If a problem is detected, the OBD system may eventually illuminate a warning lamp on the vehicle instrument panel to alert the operator.



18. The term “exhaust gas recirculation” or “EGR” includes systems that direct, usually by use of a valve, a portion of engine exhaust back toward the engine’s combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of NO<sub>x</sub>. The EGR system may include a cooler that cools the recirculated exhaust.
19. The term “Diesel Particulate Filter” or “DPF” refers to an exhaust after-treatment device that physically traps particulate matter (“PM”) and removes it from the exhaust stream of diesel fueled vehicles and equipment, typically using a porous ceramic or cordierite substrate or metallic filter.
20. The term “Engine Derate” or “Limp-Home Mode” means an electronic control module mode that reduces the engine power after the On-Board Diagnostic system identifies a problem with the emission control equipment.
21. The term “catalysts” includes systems that contain parts or chemical elements that increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal and is surrounded by a stainless steel housing.

## **Appendix B**

### **Instructions for Responses**

1. Provide a complete, detailed response to each of the requests in Appendix C in electronic form. All responsive documents and materials (*e.g.*, copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, submitted on a disk (*e.g.*, flash drive), and number stamped in sequential order (*e.g.*, Bates stamped) to permit identification using unique references. Where spreadsheets are responsive to a request, produce them in unlocked electronic spreadsheet format, such as .xls or .csv (locked spreadsheets, .pdf files, and images are unacceptable). Please contact David Alexander at (202) 564-2109 or [alexander.david@epa.gov](mailto:alexander.david@epa.gov), if providing the responses in this format will be an issue.
2. Provide executed Statement(s) of Certification (Appendix E) in hard copy form with your response.
3. This Request for Information is a continuing request. You must promptly supplement your response to any request in Appendix C in the event you learn that you possess responsive information not yet produced or if you generate, or gain possession, custody, or control of responsive information after initially responding to this Request for Information.
4. For each answer, please provide the number of the request to which it responds and identify each person who provided information that was used to prepare that answer. For each document produced, please provide the number of the request to which it responds. Where information is responsive to more than one numbered request, provide that information only once, but indicate on the responsive material the numbers of all requests to which the information is responsive.
5. When a response includes a quantity with units of measure, specify the units of measure.
6. Where documents or information necessary for a response are not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses, or is likely to possess, such information.
7. All submitted documents should be copies and not original documents.
8. Where you have previously submitted information to the EPA that is also the subject of these requests, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (*e.g.*, electronically, fax, mail), and the individual at EPA to whom it was provided.

9. Where a person at an entity other than Drew is responsible for a response to a request in Appendix C, clearly indicate in your response which entity is providing the response, as well as the person.



**Appendix C**  
**Request for Information**

1. State whether, since January 1, 2016, Drew has manufactured, designed, programmed, sold, offered to sell, shipped, drop-shipped, transferred or caused any of those activities with regard to any physical device or software which can result in modifying or overriding any function or effect of an ECM or other emission-related device or element of design, other than modifications or overriding functions or effects solely with content licensed or otherwise expressly authorized by the original, EPA-certified manufacturer of the vehicle. (Drew need not identify devices and software designed or customized solely for one or more OEMs, as identified on Drew's "Custom Engineering" page at <http://www.drewtech.com/products/custom.html> )
2. Provide the corporate name, address, email address, telephone number and contact name for every person or entity for whom Drew engaged in one or more of the activities included in Item 1.
3. For every entity identified in response to Item 2, provide:
  - a. A list of all activities conducted for the entity;
  - b. The dates of each activity;
  - c. Whether the activity pertained to a physical device, software or both;
  - d. The name, part number and other identifying information about the device or software;
  - e. A complete narrative description of the possible effects of the device or software identified in question 3(d), above;
  - f. A complete narrative description of whether the device or software can be, and/or has been put to uses other than modifying or overriding the function of an ECM or other emission-related device or element of design in a manner included in question 1, above;
  - g. Copies of each work order, change order, invoice, as well as correspondence, instructions and all other documentation which may be pertinent to understanding the function, price or cost of the device or software identified in question 3(d), above.
  - h. The addresses, and electronic addresses to which any device or software identified in question 3(d) above, was shipped or transmitted.
4. State the nature of Drew's relationship and history of business with (including a complete chronology of transactions, including all information listed in questions 3(a) through 3(h)):
  - a. Spartan Diesel Technologies, LLC

- b. Patriot Diagnostics or any entity with a similar or related name
  - c. Mr. Matthew Geouge
- 5. Provide the name and address of each location where you have stored and are currently storing any device or software identified in response to Requests 1 through 4.
- 6. Provide the name and address of each location where you have stored and are currently storing any of the records identified in response to Requests 1 through 5.
- 7. Identify each individual responsible for responding to this Request for Information, including his/her title(s), the request(s) to which each individual responded, and the period of time for which each individual is providing a response.
- 8. Provide a list of all entities that are affiliated with Drew including their addresses and telephone numbers. Describe the business relationships between all entities and provide copies of all agreements with those entities. Include a description of both formal and informal agreements, financial inter-relationships, overlap of officers and directors, and any business practices that exist between these entities. For each entity identified, list any and all name variations or business aliases used. Provide a corporate organizational chart showing all of Drew's affiliates.
- 9. For Drew and each of the entities described in response to Request 8, provide certificates of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable.
- 10. For Drew and each of the entities described in response to Request No. 8, provide a list of each entity's officers, directors, shareholders, members, managers, and partners, as applicable.
- 11. For Drew and each of the entities described in response to Request No. 8, provide the entity's net worth or net assets, and annual sales revenue.
- 12. For Drew and each of the entities described in response to Request No. 8, provide the address(es) of any location(s) where the entities have operated from January 1, 2016 to the present.
- 13. If corporate changes occurred between January 1, 2016 and the present, including but not limited to changes related to acquisitions, reorganizations, or mergers, describe such changes in narrative form.



## **Appendix D**

### **Confidential Business Information**

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, Subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, Subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).



If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R.

§ 2.204(e)(4), the EPA requests that you answer the following questions with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event, or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Request for Information if you have claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

David E. Alexander, Attorney  
United States Environmental Protection Agency  
Air Enforcement Division, (Room 1111-B South)  
1200 Pennsylvania Ave. NW  
Washington, DC 20044

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.

**Appendix E**  
**Statement of Certification**

I am submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by \_\_\_\_\_ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



**CERTIFICATE OF MAILING**

I, \_\_\_\_\_, certify that I sent a Request for Information pursuant to Section 208 of the Clean Air Act by Certified Mail, Return Receipt requested, to:

Mr. Brian Herron, President  
Drew Technologies, Inc.  
3915 Research Park Drive  
Ann Arbor, MI 48108

On the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Printed name:

Title:

Certified Mail Receipt Number:

7008 3230 00009460 5113